Case: 4:12-cv-01527-CDP Doc. #: 1 Filed: 08/27/12 Page: 1 of 3 PageID #: 1

## RECEIVED

AUG 27 2012

U. S. DISTRICT COURT EASTERN DISTRICT OF MO ST. LOUIS

## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI

CARMAN L. DECK,	)		
Petitioner,	)	N.	
VS.	)	No	
	)		
TROY STEELE,	)		
Respondent.	)		

## MOTION TO APPOINT COUNSEL IN A HABEAS CORPUS PETITION ACTION IN A DEATH PENALTY CASE

COMES NOW, Carman L. Deck, pro se and informs this Court of the following:

- 1. I was convicted of two counts of first degree murder and sentenced to death for each count following a trial in the Circuit Court of Jefferson County based upon charges that arose in Jefferson County.
- 2. On July 3, 2012, the Missouri Supreme Court affirmed the denial of my Rule 29.15 post-conviction action. On August 14, 2012, the Missouri Supreme Court overruled my Motion for Rehearing and issued its mandate.
- 3. I want to proceed with an application for a writ of habeas corpus. In *McFarland v. Scott*, 512 U.S. 849, 854 (1994) (emphasis added) (footnote omitted), the Court indicated that Section 848(q)(4)(B) "[o]n its face, . . . grants indigent capital defendants *a mandatory right* to qualified legal counsel and related services '[i]n any [federal] postconviction proceeding." Under Section 848 (q)(4)(B), a post-conviction proceeding "is commenced by the filing of a death row defendant's motion requesting the

appointment of counsel for his federal habeas corpus proceeding." *Id.* at 856-57. Under *McFarland*, this Court is required to appoint counsel to represent me and that counsel is entitled to compensation under federal law.

- 5. My present state appointed attorney has communicated with Attorneys Elizabeth Carlyle and Kevin Schriener. Both attorneys are willing to accept an appointment to represent me and to be compensated under the noted federal law governing the appointment of counsel in death penalty habeas corpus cases. Ms. Carlyle practices law at: Law Office of Elizabeth Carlyle, P.O. Box 30418, Kansas City, MO 64112, phone 816-525-6540, and fax 866-764-1249. Mr. Schriener practices law with the law firm of Law and Schriener LLC, 141 N. Meramec, Suite 314, Clayton, MO 63105, phone 314-721-7095, and fax 314-863-7096. Both Ms. Carlyle and Mr. Schriener have substantial federal habeas corpus experience, and in particular, death penalty habeas corpus experience.
- 6. Because the Missouri Supreme Court has issued its mandate and in order to permit timely and thorough presentation of my claims to this Court, I respectfully request that this Court now appoint Ms. Carlyle and Mr. Schriener to represent me.

WHEREFORE, Carman Deck *pro se* moves this Court to appoint counsel to represent me on an application for a writ of habeas corpus and to appoint counsel who have expressed a willingness to accept an appointment, Elizabeth Carlyle and Kevin Schriener, and to now make such appointment.

Respectfully submitted,

Carman L. Deck Reg. #990144

## **CERTIFICATE OF SERVICE**

I, Carman L. Deck, hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, a true and correct copy of the foregoing was mailed postage pre-paid to the Office of the Attorney General, P.O. Box 899, Jefferson City, Missouri 65102.

Carman L. Deck

Reg. # 990144

NOTARY SEAL

RICK LYNN BAILEY
My Commission Expires
February 2, 2014
St. Francois County
Commission #10413350